



STATE OF ARIZONA
DEPARTMENT OF INSURANCE

JANE DEE HULL
Governor

2910 NORTH 44th STREET, SUITE 210
PHOENIX, ARIZONA 85018-7256
602/912-8456 (phone) 602/912-8452 (fax)

CHARLES R. COHEN
Director of Insurance

Former Director Susan Gallinger issued the following Circular Letter on January 29, 1990:

Circular Letter 90-1A

TO: ALL PROPERTY AND CASUALTY INSURERS, INSURANCE TRADE ASSOCIATIONS, AGENTS' ASSOCIATIONS AND OTHER INTERESTED PERSONS

FROM: SUSAN GALLINGER, DIRECTOR OF INSURANCE

DATE: JANUARY 29, 1990

RE: CANCELLATION OR NONRENEWAL OF HOMEOWNERS' POLICIES

Recently, the Insurance Department has received complaints that some insurers are not providing the specific facts regarding the reason a homeowners' policy is being cancelled or nonrenewed. The purpose of this circular letter is to remind insurers of the statutory requirements governing nonrenewal of homeowner's policies and to highlight certain specific areas in which the Department has found non-compliance.

The laws applicable to cancellation or nonrenewal of homeowners' insurance (A.R.S. § 20-1651 et seq.) apply to all homeowners' policies and residential properties consisting of not more than four dwelling units. As noted above, these laws establish a number of requirements regarding cancellation or nonrenewal. Some examples follow:

1. A.R.S. § 20-1652(A) states that after a policy has been in effect for sixty days or, if the policy is a renewal effective immediately, no notice of cancellation is effective unless it is based on one of the following seven reasons:

- nonpayment of premium.
- conviction of the named insured of a crime arising out of acts increasing the hazard insured against.
- acts or omissions by the insured or his representative constituting fraud or material misrepresentation in obtaining the policy, continuing the policy, or in presenting a claim under the policy.

- discovery of grossly negligent acts or omissions by the insured substantially increasing any of the hazards insured against.
- substantial change in the risk assumed by the insurer since the policy was issued.
- a determination by the Director of Insurance that the continuation of the policy would place the insurer in violation of Arizona insurance laws.
- failure of the insured to take reasonable steps to eliminate or reduce any conditions in or on the insured premises which contributed to a loss in the past or will increase the probability of future losses.

2. A.R.S. § 20-1652(B), effective September 30, 1988, directs insurers in the event of nonrenewal based on condition of the premises to give the insured thirty days' notice to remedy the identified conditions. If the conditions are remedied, coverage shall be renewed. If the identified condition is not satisfactorily remedied, insurers must give the insured an additional thirty days, upon payment of the premium, to cure the defective condition. Insureds who believe nonrenewal under this subsection is arbitrary or capricious may appeal to the Director.

3. A.R.S. § 20-1653 requires the insurer to provide notice of cancellation or nonrenewal in writing and to present the specific facts which constitute the grounds set forth in A.R.S. § 20-1652 upon which the insurer is relying to cancel or nonrenew the policy. Many complaints received by the Department indicate that insurers use such general terms in the notice as "loss history." This phrase has little meaning to the insured, does not comply with the law because it does not present the facts, and clouds the issues.

For example, if a policyholder has incurred two losses within six months because his neighbor's children have fallen into the insured's unfenced swimming pool, the insurer cannot use "loss history" as a reason to nonrenew or cancel coverage. First, "loss history" is not one of the reasons for which the insurer may legally cancel or nonrenew under A.R.S. § 20-1652(A). Second, the losses are being caused by a condition of the premises which the insured could probably correct by fencing his pool. Therefore, A.R.S. § 20-1652(B) applies, and the insurer must give the specific facts regarding the condition of the premises to the insured under A.R.S. § 20-1653 in its notice. Also, in the preceding example, the insurer could not use "substantial increase in hazard" or "substantial change in risk" as reasons to cancel or nonrenew if nothing about the swimming pool has changed since the insurer initially accepted the risk.

It should also be noted that theft, vandalism and malicious mischief are also typical types of losses for which the insured can often correct the condition of the premises to avoid future losses.

4. A.R.S. § 20-1654 requires an insurer to give at least thirty days advance notice of its intention to nonrenew or to condition renewal upon reduction of limits or elimination of coverage. If the insurer does not give thirty days advance notice, the insurer must renew the policy upon payment of the premium. Any policy previously written for less than a one year term may be renewed for a term of one year if the required notice is not given. A policy with no fixed expiration date is deemed to be written for successive policy periods of one year.

Although this circular is not intended as an exhaustive analysis of the homeowners' cancellation or nonrenewal laws, we hope it will serve to assist insurers in compliance with certain specific requirements. Since A.R.S. § 20-1651 et seq. has other provisions relating to a variety of issues, we encourage those who issue homeowners' policies in Arizona to obtain a copy of the laws and to become thoroughly familiar with them.